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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Carlos Meorado Carrillo,

9 Plaintiff,

10 vs.

11 Pima Community College District,

12 Defendant.
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No. CIV 25-034-TUC-CKJ

ORDER

14 Pending before the Court is the Motion to Alter or Amend Judgment Pursuant to Rule
15 59(e) (Doc. 24) filed by Plaintiff Carlos Meorado Carrillo ("Carrillo"). Defendant Pima
16 Community College District ("PCCD") filed a response (Doc. 25), but the Court advised the
17 parties it would not be considering the response. *See* July 11, 2025, Order (Doc. 29),
18 *quoting* LRCiv 7.2(g) ("No response to a motion for reconsideration and no reply to the
19 response may be filed unless ordered by the Court . . ."). Additionally, Carrillo has filed a
20 Supplemental Statement in Support of Plaintiff's Motion to Alter or Amend Judgment (Rule
21 59(e)) (Doc. 28). After reviewing the Motion, the Court finds it appropriate to address
22 Carrillo's arguments without a response.

23 It is within the Court's discretion to grant or deny a motion for reconsideration filed
24 under Rule 59(e) or Rule 60(b) of the Federal Rules of Civil Procedure. *School Dist. No.*
25 *1J, Multnomah County v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993); *United Nat'l Ins.*
26 *Co. V. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009) ("A denial of a motion
27 for reconsideration under Rule 59(e) is construed as one denying relief under Rule 60(b) and
28 neither will be reversed absent an abuse of discretion[.]").

1 The Court may reconsider an order and grant a "motion under Rule 59(e) if the
 2 district court is presented with newly discovered evidence, committed clear error, the initial
 3 decision was manifestly unjust, or there is an intervening change in controlling law."
 4 *Chavarria v. Shinn*, No. CV-22-00102-PHX-MTL, 2023 WL 8039665, at *1 (D. Ariz. Oct.
 5 27, 2023), *citing School Dist. No. 1J*, 5 F.3d at 1263. "Rule 60(b) 'provides for
 6 reconsideration only upon a showing of (1) mistake, surprise, or excusable neglect; (2)
 7 newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged
 8 judgment; or (6) 'extraordinary circumstances' which would justify relief.'" *Id.*, *quoting*
 9 *Fuller v. M.G. Jewelry*, 950 F.2d 1437, 1442 (9th Cir. 1991); *Backlund v. Barnhart*, 778
 10 F.2d 1386, 1388 (9th Cir. 1985).

11 "Motions for reconsideration should be granted only in rare circumstances."
 12 *Harrington v. Cracker Barrel Old Country Store Inc.*, 713 F. Supp. 3d 568, 575 (D. Ariz.
 13 2024), *citing Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003); *see also Delaware*
 14 *Valley Floral Grp., Inc. v. Shaw Rose Nets, LLC*, 597 F.3d 1374, 1384 (Fed. Cir. 2010).
 15 Such motions should not be used for the purpose of asking a court "to rethink what the
 16 court had already thought through-rightly or wrongly." *Harrington*, 713 F.Supp.3d at 575,
 17 *citations omitted*; *see also Pollock v. Energy Corp. of Am.*, 665 F. App'x 212, 218 (3d Cir.
 18 2016), *citations omitted*. "Mere disagreement with an order is an insufficient basis for
 19 reconsideration." *Yount v. Salazar*, 933 F. Supp. 2d 1215, 1236 (D. Ariz. 2013), *aff'd sub*
 20 *nom. Nat'l Mining Ass'n v. Zinke*, 877 F.3d 845 (9th Cir. 2017).

21 Carrillo asserts the granting of the Motion to Dismiss included clear error of law and
 22 fact because the Court failed to consider the significant new evidence and factual
 23 developments which arose after Carrillo's voluntary dismissal of the prior federal case, the
 24 correct and prevailing legal standards under Title IX, and the well-pleaded factual
 25 allegations and exhibits in Carrillo's SAC "demonstrating deliberate indifference,
 26 defamation by implication, and tortious interference causing real harm." Motion (Doc. 24,
 27 p. 2).
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1 *Alleged Failure to Consider Significant New Evidence and Factual Developments*

2 Carrillo argues significant new evidence he obtained after the filing of CV 24-
3 123-JCH, including subpoenaed emails and documents obtained after dismissal of the earlier
4 case, constitute a materially different factual predicate exempt from claim preclusion under
5 *Lawlor v. National Screen Service*, 349 U.S. 322 (1955). However, the "newly discovered
6 evidence" at issue in reviewing a motion for reconsideration is whether the evidence was
7 available at the time of filing a motion or response. Indeed, the Ninth Circuit has stated:

8 [T]o support a motion for reconsideration of a grant of [a motion] based upon newly
9 discovered evidence, the movant is "obliged to show not only that this evidence was
10 newly discovered or unknown to it until after the hearing[/consideration of the
motion], but also that it could not with reasonable diligence have discovered and
produced such evidence at the hearing[/before consideration."

11 *Frederick S. Wyle Pro. Corp. v. Texaco, Inc.*, 764 F.2d 604, 609 (9th Cir. 1985), *citations*
12 *omitted*.

13 Carrillo's argument as to the applicability of the "newly discovered evidence" as it
14 relates to *res judicata*, therefore, does not warrant reconsideration. However, Carrillo also
15 asserts clear error as to this issue warrants reconsideration. "Clear error occurs when 'the
16 reviewing court on the entire record is left with the definite and firm conviction that a
17 mistake has been committed.'" *Smith v. Clark Cty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir.
18 2013), *quoting United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). Carrillo
19 appears to be relying on *Lawlor* to dispute that this lawsuit and CV 24-123-JCH were based
20 on the same cause of action.

21 However, the Court in *Lawlor* addressed a situation in which claims "did not even
22 . . . exist [at the time of the prior lawsuit] and which could not possibly have been sued upon
23 in the previous case." 349 U.S. at 328. The Court considered this principle in its Order
24 granting the Motion to Dismiss. June 30, 2025 Order (Doc. 22, p. 8), *citing Media Rts.*
25 *Techs., Inc. v. Microsoft Corp.*, 922 F.3d 1014, 1021 (9th Cir. 2019), *citation omitted*
26 ("claim preclusion does not apply to claims that accrue after the filing of the operative
27 complaint' in the first suit").
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1 Indeed, the Court considered "whether: (1) 'the two suits arise out of the same
2 transactional nucleus of facts'; (2) 'rights or interests established in the prior judgment would
3 be destroyed or impaired by prosecution of the second action'; (3) 'the two suits involve
4 infringement of the same right'; and (4) 'substantially the same evidence is presented in the
5 two actions.'" *Id.*, quoting *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir.
6 2005), *citation omitted*. The Court recognized the common nucleus criterion is often
7 outcome determinative under the first *res judicata* element and a "transaction test" is used
8 in determining whether a common nucleus of operative fact is shared by the two suits. *Id.*,
9 *citations omitted*.

10 The Court determined that it appeared "Carrillo alleged in the second lawsuit that
11 PCCD provided information to NPC by undisclosed means, but in this case Carrillo alleges
12 this information was provided in documentation." June 30, 2025 Order (Doc. 22, p. 9).
13 Carrillo has not disputed this determination. The Court determined the distinction between
14 the two cases was the method, content, and extent of the information disclosed to NPC, that
15 the additional facts in this case were related to the facts of CV 24-123-JCH and provided
16 additional evidence of the same basic nucleus of facts that PCCD disclosed information to
17 NPC. In reviewing the Court's prior conclusion, this Court is not left "with the definite and
18 firm conviction that a mistake has been committed." *Smith*, 727 F.3d at 955.

19 The Court finds clear error does not warrant reconsideration of the Court's prior
20 order.

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22 *Legal Standards Under Title IX*

23 Carrillo argues that, "under *Jackson v. Birmingham Board of Education*, 544 U.S.
24 167 (2005), Title IX retaliation protections extend to individuals who oppose sex
25 discrimination, including retaliation arising after formal complaints or investigations,
26 regardless of the plaintiff's sex." Motion (Doc. 24, p. 3). Indeed, the Supreme Court held,
27 "Retaliation against a person because that person has complained of sex discrimination is
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1 another form of intentional sex discrimination encompassed by Title IX's private cause of
2 action." *Jackson*, 544 U.S. at 173.

3 However, the Eleventh Circuit Court of Appeals has stated:

4 *Jackson* does not contemplate protections for an accused discriminator who
5 participates in a Title IX investigation of his own conduct. That situation bears none
6 of the features of the *Jackson* implied right of action: it does not protect students,
7 and it does not encourage reporters to come forward. It is unsurprising then that at
8 least one other circuit has refused to recognize retaliation actions for participation in
9 an investigation where the would-be plaintiff is accused of discrimination. *See Du*
10 *Bois v. Bd. of Regents of the Univ. of Minn.*, 987 F.3d 1199, 1204–05 (8th Cir. 2021).

11 *Joseph v. Bd. of Regents of the Univ. Sys. of Georgia*, 121 F.4th 855, 870 (11th Cir. 2024).

12 Indeed, Title IX does not designate "participation in a sexual harassment investigation on
13 the side of the accused as protected activity." *Du Bois*, 987 F.3d 1199, 1205 (8th Cir. 2021).

14 The Court finds it did not commit clear error, nor was the initial decision manifestly
15 unjust. Further, extraordinary circumstances do not justify relief. The Court finds
16 reconsideration of its June 30, 2025, Order on this basis is not appropriate.

17 *Allegations and Exhibits Purporting to Demonstrate Elements of Claims*

18 Carrillo asserts he has sufficiently alleged and shown facts demonstrating PCCD's
19 "deliberate indifference, dissemination of misleading Title IX-related police reports,
20 unauthorized sharing of confidential information, and failure to correct known defamation."
21 Motion (Doc. 24, pp. 3-4). The Court addressed the elements of each alleged claim and the
22 alleged facts, including reasonable inferences raised, related to those claims. The Court
23 determined Carrillo had made conclusory allegations and failed to allege sufficient facts to
24 adequately state the purported claims. Rightly or wrongly, the Court has thought through
25 whether Carrillo has adequately alleged claims and it is not appropriate to rethink whether
26 he has adequately stated a claim. *Harrington*, 713 F.Supp.3d at 575. Reconsideration of
27 the adequacy of the claims is not warranted.

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1 *Conclusion*

2 The Court finds Carrillo has not set forth a sufficient basis to justify reconsideration
3 of the Court's June 30, 2025, Order. Rather, "[a]rguments that [this Court] was in error on
4 the issues it considered should be directed to the court of appeals." *Martinez v.*
5 *Hacker-Agnew*, No. CV-16-0731-TUC-BGM, 2020 WL 4003231, at *1 (D. Ariz. July 15,
6 2020), *quoting Defenders of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D. Ariz. 1995).

7 Accordingly, IT IS ORDERED the Motion to Alter or Amend Judgment Pursuant to
8 Rule 59(e) (Doc. 24) is DENIED.

9 DATED this 16th day of July, 2025.

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12 Cindy K. Jorgenson
13 United States District Judge
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